

For The District of Oregon

FILED DEC 26 2024 USDCORP

James Bogasian
Plaintiff,

v.

MS Emory
Jane/Johndoe(3)

Case no 2:24-cv-01359-SI

first Amended Complaint

Violation of 8th Amendment

Deliberate indifference: 42

Urc 31983

(Jury Trial Demanded)

Preliminary Statement

- 1) Plaintiff, at all material times, was incarcerated at ECI.
- 2) Defendant Emory food Services Manager is employed by ECI to oversee food services
- 3) Defendant Jane//John doe 1,2,3 employees whose identities are presently unknown to plaintiff, but who were involved in the violation alleged herein; all stood Sod in their individual and official capacities
- 4) Plaintiff Claims his 8th Amendment Rights under the OS Constitution were violated when Defendants Emory and Jane/Johndoe 1,2,3 failed to act, knowing of the substantial risk of Slips and falls and the Serious harm caused by the ongoing hazards in the pan room. All Defendants acted under color of State law.

Jurisdiction

5) This Court has Jurisdiction pursuant to the 8th Amendment to the US Constitution, 28 USC §1333(a)(3) and 42 USC §1983

6) On or around March 10th 2024 plaintiff started working in the panroom at ECCE's Kitchen

7) On or around March 10th 2024 plaintiff informed Ms Emory and Jane Doe(1) of the need for boots and slip-resistant surfaces as plaintiff was informed of the hazards and unsafe condition in the kitchen due to slick floors, water, Not providing boots, no slip-resistant surfaces and

8) Ms. Emory and Jane Doe(2) explained "if you don't like the conditions don't come to prison" and "laughed"...

9) On or around March 20th 2024 plaintiff fell due to wet and slick floors and informed Ms Emory and Jane Doe(1) and again requested boots and for the unsafe conditions to be fixed. Plaintiff's request went without notice and nothing changed.

10) On or around March 27th 2024 plaintiff slipped again and veterans request for Ms. Emory and Jane Doe(3) to fix the excessive risk of injury as plaintiff and other ATC's keep getting hurt due to hazardous conditions. Ms. Emory and Jane Doe(1) refuse to fix.

11) On or around March 29th 2024 plaintiff slipped yet again

again and was met with anger by Ms. Emory and (unclear) for request for Books and to fix the wet and slick hazardous floor floors.

- 12) On or around July 6th 2024 Plaintiff Slipped and Fell due to the dangerous conditions in the Kitchen and Suffered a Major Injury and has yet to receive Surgery, but an MRI is Currently Set. (Slipped on attached Steel plate) unsafe conditions on floor.
- 13) All Defendant(s) Failed to act when they had a duty and the power to Correct the Constitutional Violation alleged herein.
- 14) All Defendant(s) Failed to use Such Care as a reasonably prudent and Careful person would use under Similar Circumstances. Prison officials owe prisoners duty of care to protect them from risk, as prisoners, they have diminished ability to protect themselves.
- 15) all Defendants acted in violation of State prison policies/regulations and are not immune, because, those policies Conform to clearly established law and the Constitution Had these policies and regulations been followed no Constitutional Violation would have occurred.
- 16) All Defendant(s) Were made aware of those Constitutional issues.
- 17) All Defendant(s) Failure to act Caused plaintiffs Injury

the Defendants fulfilled their duty no injury would of occurred,
and this could of been avoided.

18) All Defendants acted with deliberate indifference to
plaintiff's Safety and Health in failing to fix the hazardous conditions
regarding the wet slick floors and the ongoing issues
with the slips and falls/injury.

19) Plaintiff joined Kitchen floor hazard and was denied.

(Claim for Relief)

20) Plaintiff re-alleges Paragraphs 1 through 19 herein.

21) Defendant Ms. Emery Jane Doe John Doe 1,2,3 violated
plaintiff's rights under the 8th Amendment to the US Constitution
and 42 USC § 1983 by disregarding the Slick attached
Steel plate on floor and the excessive risk this hazard causes and
failed to take reasonable measures to abate this condition.

23) as a result of Defendants failure to act plaintiff suffered
injury that requires MRI and Surgery and suffered non-economic
damages in the sum of \$200,000⁰⁰ or such other amount as to be proven
at trial.

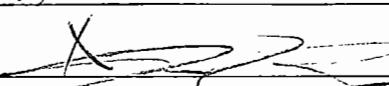
24) Plaintiff is entitled to reasonable attorney's fees

pursuant to 42 U.S.C § 1988 (b)

Wherefore plaintiff requests the following relief.

- (a) For Judgment in amount of \$10,000 on his claim for relief.
- (b) Plaintiff's Costs, disbursements, and attorney fees.
- (c) For such other relief as this Court deems Just and Equitable.
- (d) PRO-BONO Counsel
- (e) ADA accommodations of an understanding plaintiff has TBI and requires PRO-BONO Counsel

Dated, 12-21-24


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Sols